



JOSEPH R. BIDEN, III
ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
820 NORTH FRENCH STREET
WILMINGTON, DELAWARE 19801

CONTACT JASON MILLER
PUBLIC INFORMATION OFFICER
PHONE (302) 577-8949
CELL (302) 893-8939
Jason.Miller@state.de.us

Media Release

May 28, 2009

Delaware Department of Justice announces appellate decision in criminal case against defendant Loyer Braden

Wilmington, DE – The Delaware Department of Justice announced today that it has re-evaluated the evidence in the criminal case against defendant Loyer Braden in the light of information that has been learned during the week of May 18th. It has concluded that even if this case were to be set for trial, the State would not have a reasonable prospect of obtaining a conviction. Therefore, the State has not filed a motion for reconsideration of the Superior Court decision dismissing all charges in the case, and the State will not be filing an appeal from this ruling.

The Superior Court dismissed the Murder 2nd Degree indictment in State v. Loyer Braden, on May 19, 2009. The State had in its possession a recorded witness interview which would have been helpful to the defense, but which was not turned over to the defense until April 8, 2009. The trial was at that time scheduled to begin on April 20, 2009. The witness could not be located for that trial date, the trial was continued, and the witness was not subsequently located. The witness had not been located as of May 19, 2009.

The sequence of events in this case is as follows:

- In the early morning hours of Friday, September 21, 2007, a group of about nine students was walking on the Delaware State University campus. Without warning, multiple shots rang out from a darkened location off to the side and a good distance away. Two individuals were hit. Two police departments conducted the investigation that followed.
- On September 24, 2007 the police arrested Loyer Braden for Attempted Murder 1st Degree and other charges.
- On September 25, 2007 a police officer recorded an interview with a witness who was a part of the group of nine students. The interview lasted about eighteen minutes. The witness stated that he did not see the shooter. He said that he did not think that Braden was the shooter, because Braden was wearing a black t-shirt that night, and he had seen two people wearing white t-shirts running from where the shots had come from. He also said that other people were telling him that the shooter was a guy who sold CDs from a black car. No one wrote a report mentioning this witness or the substance of the recorded interview.
- On October 23, 2007, one of the two victims died as a result of being shot.
- On October 29, 2007, the two police departments conducted an “intake” with a prosecutor and turned over about 20 recorded interviews, including that of the witness referenced above. Additional recorded interviews were also turned over to the Delaware Department of Justice at

other times. In all, about 28 recorded interviews lasting about 18 ½ hours were turned over. Most of the interviews – but not those of this witness and four others – were described in the police reports. No one from the Delaware Department of Justice had listened to the witness interview referenced above until the weekend of April 4, 2009, at which time the trial was scheduled for April 20, 2009. On April 8, 2009, the witness interview was produced to defense counsel, along with police reports and nine other recorded interviews.

- When it became apparent that the witness referenced above was not going to be located in time to testify at trial, the prosecutors offered to allow the recorded interview into evidence.
- The Superior Court delayed the trial so that the witness could be found. He was not located. The witness lives in Washington, DC. At all times, the Delaware Department of Justice and the police had what had been his home address in 2007. The Delaware Department of Justice relied upon contacts the Dover police had with Washington, DC police to find the witness. The Washington, DC police reported that they had gone to the home and that it was a “bad” address. After the Superior Court dismissed the case, the Washington, DC police further investigated and discovered that the witness was living at what they had earlier reported as a “bad” address.

The Superior Court was correct that the witness interview referenced above would have been helpful to the defense and that this witness, if produced in court, could testify favorably to the defense. The witness statement was that he did not observe who did the shooting; but only that he did not believe that the defendant did so because he was wearing a black shirt and because of what he heard from other students on campus.

In summary, no one at the Delaware Department of Justice intentionally withheld any evidence from the defense. When it was discovered that the Delaware Department of Justice had the witness statement it was promptly produced. When it was learned that the witness who was necessary to introduce that evidence could not be located the Delaware Department of Justice offered to allow the statement taken to be introduced as evidence even without the witness being present. At no time did the Delaware Department of Justice try to deny the defendant a fair trial.

#